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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,329	12/14/2001	Richard Norris Dodge II	16184	4952

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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/022,329

Applicant(s)

DODGE ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wanek et al. (US 5,466,513).

With respect to claim 1, Wanek et al. (hereinafter Wanek) discloses a nonwoven material for personal care products comprising superabsorbent fibers in an amount of at least 40 weight percent (col. 6, line 49 to col. 7, line 22) and binder in an amount of between 10 and 60 weight percent (4, lines 24 – 29) in a Z-directionally oriented web as set forth in col. 11, lines 15 – 23.

With respect to claim 2, Wanek discloses the binder as synthetic bicomponent fibers as set forth in col. 4, lines 8 – 20.

As to claim 3, Wanek discloses the nonwoven further comprising natural fibers in an amount of at most 40 weight percent as set forth in col. 4, lines 29 – 36.

With reference to claim 4, Wanek discloses the nonwoven comprising synthetic polymeric fibers selected from the listed group as set forth in col. 3, lines 35 – 43.

Art Unit: 3761

Regarding claims 5 – 9 and 13 – 17, Wanek discloses the material used in the claimed applications as set forth in col. 8, lines 20 – 23.

As to claim 10, Wanek discloses a nonwoven material for personal care products comprising superabsorbent fibers in an amount of at least 50 weight percent (col. 6, line 49 to col. 7, line 22), polypropylene/polyethylene bicomponent fiber in an amount of at least 20 weight percent (col. 4, lines 8 – 29), in a Z-directionally oriented web as set forth in col. 11, lines 15 – 23.

With reference to claim 11, Wanek discloses the nonwoven further comprising natural, hydrophilic fibers as set forth in col. 5, line 62 to col. 6, line 16.

As to claim 12, Wanek discloses the natural fiber being selected from the listed group as set forth in col. 5, lines 55 – 61.

With respect to claim 18, Wanek discloses a nonwoven material for personal care products comprising superabsorbent fibers in an amount of at least 60 weight percent (col. 6, line 49 to col. 7, line 22), polypropylene/polyethylene bicomponent fiber in an amount of at least 30 weight percent (col. 4, lines 8 – 29), and rayon fibers (col. 5, lines 55 – 61) in a Z-directionally oriented web as set forth in col. 11, lines 15 – 23.

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Kellenberger (US 5,147,343).

As to claim 19, Kellenberger discloses a nonwoven material for personal care products comprising a Z-directionally oriented web (col. 11, lines 61 – 66) having an intake rate at 50% saturation of at least 7 cc/s and a capacity of at least 4 g/g as set forth in col. 11, lines 14 – 34. Kellenberger disclose that a total volume of 60 ml is

Art Unit: 3761

delivered with each insult. There are four insults. At 50%, 120ml has been absorbed with a capacity of 6g/g as disclosed in col. 11, lines 14 – 34 and in figure 16.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellenberger (US 5,147,343).

The difference between Kellenberger and claims 20 – 21 is the provision that the material has a capacity of at least 6g/g and 10g/g, respectively.

Kellenberger teaches a material having a capacity of at least 4g/g as set forth in the rejection of claim 19.

It would have been obvious to one of ordinary skill in the art to modify the capacity since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wanek et al. (US 5,466,513) and further in view of Kellenberger (US 5,147,343).

The difference between Wanek and claim 22 is the provision that the web has an intake rate at 50% saturation of at least 7 cc/s and a capacity of at least 4 g/g.

Art Unit: 3761

Kellenberger teaches a web having an intake rate at 50% saturation of at least 7 cc/s and a capacity of at least 4 g/g as set forth in the rejection of claim 19.

It would have been obvious to one of ordinary skill in the art to modify the web of Wanek to provide the claimed intake rate because the claimed intake rate provides the web with the ability to rapidly imbibe multiple fluid surges which significantly improves the performance of the composite as taught by Kellenberger in col. 7, lines 11 – 14.

### ***Response to Arguments***

Applicant's arguments filed November 12, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., fibers oriented in the Z direction) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The applicant argues that the fibers of Wanek and Kellenberger are not oriented in the Z direction; however, the applicant's claim only requires a Z-directionally oriented web. Wanek provides the absorbent layer with a Z-gradient (col. 11, lines 19 – 20), thereby provided a Z-directionally oriented web. Likewise, Kellenberger provides the superabsorbent material of the article in a Z-direction gradient as set forth in col. 11, lines 60 – 66.

Art Unit: 3761

With respect to the applicant's argument that Kellenberger does not provide the claimed intake rate and capacity, the examiner refers again to col. 11, lines 14 – 34 where Kellenberger discloses that 60ml are delivered with each insult. There are four insults (figure 16) and at 50% saturation (second insult) 120ml have been delivered and the capacity is 6 g/g as set forth in col. 11, lines 14 – 34 and in figure 16.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

Art Unit: 3761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

*Michele Kidwell*  
Michele Kidwell  
January 21, 2004

*GK*  
**GLENN K. DAWSON**  
**PRIMARY EXAMINER**